

## **REMARKS / ARGUMENTS**

Claims 1-6 are pending in the present application. Of these, claims 1 and 4 are independent.

Claims 1-8 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.S.R. Inventors' Certificate No. 1,179,978 to Myshkin in view of Gordon et al. and Cope et al.

Claims 9 and 10 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,889,120 (Gordon et al).

### **Discussion**

Amended independent claim 1 is allowable over Myshkin, Gordon and Cope since these references do not disclose or suggest first and second components with "at least one of the components including a material having the ability to produce or be attracted by a magnetic field so that the first and second components are magnetically attracted to one another" and "the first and second components being configured to be secured to an outer wall of the vessel so that the first and second components contact one another when secured together to form the anastomosis." Nowhere do the cited references disclose the recited combination.

Applicant submits that Myshkin and Cope both disclose magnetic rings which are separated by the walls that are being secured together and, thus, do not contact one another when forming the anastomosis as claimed. It would not have been obvious to modify Myshkin and Cope to provide components which contact one another when forming the anastomosis since such a modification is contrary to the essential teachings in Myshkin and Cope. In Myshkin, the magnetic rings slowly crush the tissue between the rings until the rings are free to migrate downstream. During the time it takes to crush the tissue compressed between the rings, the anastomosis has grown together. It is unclear how one could provide contact between the rings in Myshkin while still permitting the rings to crush the tissue over time. Cope, on the other hand, provides a device for attaching viscera together and, as such, clearly compresses the viscera being

the two magnetic components. Cope provides no contact between the two magnetic components as claimed.

Amended independent claim 4 is allowable over the Myshkin, Gordon and Cope for essentially the same reason that claim 1 distinguishes, namely, that the references do not disclose or suggest first and second components which are "magnetically attracted to one another" with the first and second components "contacting one another when secured together to create the anastomosis." As discussed above, the references do not disclose or suggest the use of magnetic components which contact one another when forming the anastomosis. Applicant further submits that it would not have been obvious to modify the references to render claim 4 obvious for the reasons given above.


Dependent claims 1-3 and 5-6 are allowable because they depend upon allowable independent claims 1 and 4 and because they recite independently patentable features.

### CONCLUSION

Applicant believes that all of the claims are now in condition for allowance and an action to that end is respectfully requested. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-412-3322.

Respectfully submitted,

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Date

  
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